



General Assembly

February Session, 2006

Raised Bill No. 465

LCO No. 2547

02547____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

***AN ACT CONCERNING THE UNDERGROUND STORAGE TANK
PETROLEUM CLEAN-UP ACCOUNT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-449a of the 2006 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2006, and applicable to applications filed with the*
4 *Underground Storage Tank Clean-Up Review Board on or after October 1,*
5 *2006*):

6 As used in this section and sections 22a-449c to 22a-449m, inclusive,
7 as amended by this act, and 22a-449p:

8 (1) "Petroleum" means crude oil, crude oil fractions and refined
9 petroleum fractions, including gasoline, kerosene, heating oils and
10 diesel fuels;

11 (2) "Release" means any spilling, leaking, pumping, pouring,
12 emitting, emptying, discharging, injecting, escaping, leaching,
13 dumping or disposing of petroleum from any underground storage
14 tank or underground storage tank system;

15 (3) "Responsible party" means (A) for an application or request for
16 payment or reimbursement received by the board before [July 1, 2005]
17 October 1, 2006, or for a determination regarding a person's status as a
18 responsible party or a third party with respect to a specific release or
19 suspected release made by the board before [July 1, 2005] October 1,
20 2006, any person who owns or operates an underground storage tank
21 or underground storage tank system from which a release or suspected
22 release emanates, (B) for an application or request for payment or
23 reimbursement received by the board on or after [July 1, 2005] October
24 1, 2006, any person who (i) at any time owns, leases, uses or has an
25 interest in the real property on which an underground storage tank
26 system is or was located from which there is or has been a release or
27 suspected release, regardless of when the release or suspected release
28 occurred, or whether such person owned, leased, used or had an
29 interest in the real property at the time the release or suspected release
30 occurred, or whether such person owned, operated, leased or used the
31 underground storage tank system from which the release or suspected
32 release occurred, (ii) at any time owns, leases, operates, uses, or has an
33 interest in an underground storage tank system from which there is or
34 has been a release or suspected release, regardless of when the release
35 or suspected release occurred or whether such person owned, leased,
36 operated, used or had an interest in the underground storage tank
37 system at the time the release or suspected release occurred, or (iii) is
38 affiliated with a person described in subclause (i) or (ii) of this
39 subparagraph through a direct or indirect familial relationship or any
40 [contractual,] corporate or financial relationship;

41 (4) "Underground storage tank" means a tank or combination of
42 tanks, including underground pipes connected thereto, used to contain
43 an accumulation of petroleum, whose volume is ten per cent or more
44 beneath the surface of the ground, including the volume of
45 underground pipes connected thereto;

46 (5) "Underground storage tank system" means an underground
47 storage tank and any associated ancillary equipment and containment

48 system;

49 (6) "Residential underground heating oil storage tank system"
50 means (A) an underground storage tank system used in connection
51 with residential real property composed of four residential units or
52 fewer, or (B) a storage tank system and any associated ancillary
53 equipment used in connection with residential real property composed
54 of four residential units or fewer; and

55 (7) "Person" means any individual, firm, partnership, association,
56 syndicate, company, trust, corporation, limited liability company,
57 municipality, agency or political or administrative subdivision of the
58 state, or other legal entity of any kind.

59 Sec. 2. Section 22a-449c of the 2006 supplement to the general
60 statutes is repealed and the following is substituted in lieu thereof
61 (*Effective October 1, 2006, and applicable to applications filed with the*
62 *Underground Storage Tank Clean-Up Review Board on or after October 1,*
63 *2006*):

64 (a) (1) There is established an account to be known as the
65 "underground storage tank petroleum clean-up account". The
66 underground storage tank petroleum clean-up account shall be an
67 account [of the Environmental Quality Fund. Notwithstanding any
68 provision of the general statutes to the contrary, any moneys collected
69 shall be deposited in the Environmental Quality Fund and credited to
70 the underground storage tank petroleum clean-up account] that shall
71 be held by the Underground Storage Tank Clean-Up Review Board
72 established under section 22a-449d, as amended by this act. The board
73 may use not more than one million five hundred thousand dollars
74 from the account for administrative costs. Any balance remaining in
75 said account at the end of any fiscal year shall be carried forward in
76 said account for the fiscal year next succeeding.

77 (2) The account shall be used by the [Commissioner of
78 Environmental Protection] Underground Storage Tank Clean-Up

79 Review Board to provide money for reimbursement or payment
 80 pursuant to section 22a-449f, as amended by this act, to responsible
 81 parties or parties supplying goods or services, for costs, expenses and
 82 other obligations paid or incurred, as the case may be, as a result of
 83 releases, and suspected releases, costs of investigation and remediation
 84 of releases and suspected releases, and for claims by a person other
 85 than a responsible party for bodily injury, property damage and
 86 damage to natural resources that have been finally adjudicated or
 87 settled with the prior written consent of the board. The [commissioner]
 88 board may also make payment from the account to an assignee who is
 89 in the business of receiving assignments of amounts approved by the
 90 board, but not yet paid from the account, provided the party making
 91 any such assignment, using a form approved by the [commissioner]
 92 board, directs the [commissioner] board to pay such assignee, that no
 93 cost of any assignment shall be borne by the account and that the state
 94 and its agencies shall not bear any liability with respect to any such
 95 assignment.

96 (3) Notwithstanding the provisions of this section regarding
 97 reimbursements of parties pursuant to section 22a-449f, as amended by
 98 this act, and regulations adopted pursuant to section 22a-449e, as
 99 amended by this act, and regardless of when an application for
 100 payment or reimbursement from the account may have been
 101 submitted to the board, [payment or reimbursement shall be made in
 102 accordance with the following: (A) After] after June 1, 2004, no
 103 payment or reimbursement shall be made for any costs, expenses and
 104 other obligations paid or incurred for remediation, including any
 105 monitoring to determine the effectiveness of the remediation, of a
 106 release to levels more stringent than or beyond those specified in the
 107 remediation standards established pursuant to section 22a-133k, except
 108 to the extent the applicant demonstrates that it has been directed
 109 otherwise, in writing, by the [commissioner; (B) after June 1, 2005, no
 110 payment or reimbursement from the account shall be made to any
 111 person for diminution in property value or interest; and (C) after June
 112 1, 2005, no payment or reimbursement from the account shall be made

113 for attorneys' fees or other costs of legal representation paid or
114 incurred as a result of a release or suspected release (i) in excess of five
115 thousand dollars to any responsible party, (ii) in excess of ten
116 thousand dollars to any person other than a responsible party, and (iii)
117 by a responsible party regarding the defense of claims brought by
118 another person] Commissioner of Environmental Protection. In
119 addition, notwithstanding the provisions of this section regarding
120 reimbursements of parties pursuant to section 22a-449f, as amended by
121 this act, the responsible party shall bear all costs of the release that are
122 less than ten thousand dollars and all persons shall bear all costs of the
123 release that are more than one million dollars, except that for any such
124 release which was reported to the department prior to December 31,
125 1987, and for which more than five hundred thousand dollars has been
126 expended by the responsible party to remediate such release prior to
127 June 19, 1991, the responsible party for the release shall bear all costs of
128 such release which are less than ten thousand dollars or more than five
129 million dollars, provided the portion of any reimbursement or
130 payment in excess of three million dollars may, at the discretion of the
131 [commissioner] board, be made in annual payments for up to a five-
132 year period. [There shall be allocated to the department annually, for
133 administrative costs, two million dollars.]

134 (b) There is established a subaccount within the underground
135 storage tank petroleum clean-up account to be known as the
136 "residential underground heating oil storage tank system clean-up
137 subaccount" to be used solely for the provision of reimbursements
138 under sections 22a-449l and 22a-449n, for the remediation of
139 contamination attributed to residential underground heating oil
140 storage tank systems. The subaccount shall hold the proceeds of the
141 bond funds allocated pursuant to section 51 of public act 00-167*.

142 [(c) There is established a subaccount within the underground
143 storage tank petroleum clean-up account to be known as the "pay for
144 performance subaccount" with which the commissioner may
145 implement a program, in consultation with the board, in which

146 reimbursement or repayment in accordance with this section is based
147 upon the achievement of environmental milestones or results. The
148 commissioner, with the approval of the board, may enter into contracts
149 to implement any such program.

150 (d) (1) If an initial application or request for payment or
151 reimbursement is received by the board before July 1, 2005, no
152 supplemental application or request for payment or reimbursement
153 shall be submitted to the board on or after October 1, 2009, regarding
154 costs, expenses or other obligations paid or incurred in response to the
155 release or suspected release noted in any such initial application or
156 request for payment or reimbursement. The provisions of this
157 subdivision shall apply regardless of whether the cost, expense or
158 other obligation was paid or incurred before October 1, 2009, and no
159 reimbursement or payment from the account shall be ordered by the
160 board or made by the commissioner regarding any such supplemental
161 application or request for payment or reimbursement received by the
162 board on or after the October 1, 2009, deadline established in this
163 subdivision.

164 (2) If an initial application or request for payment or reimbursement
165 is received by the board on or after July 1, 2005, no supplemental
166 application or request for payment or reimbursement shall be
167 submitted to the board more than five years after the date that the
168 initial application or request for payment or reimbursement was
169 received by the board, regarding costs, expenses or other obligations
170 paid or incurred in response to the release or suspected release noted
171 in such initial application or request for payment or reimbursement.
172 The provisions of this subdivision shall apply regardless of whether a
173 cost, expense or other obligation was paid or incurred before the
174 expiration of the five-year deadline established in this subdivision and
175 no reimbursement or payment from the account shall be ordered by
176 the board or made by the commissioner regarding any such
177 supplemental application or request for payment or reimbursement
178 received by the board after the five-year deadline established in this

179 subdivision.

180 (3) Notwithstanding the provisions of subsection (i) of section 22a-
181 449f, if an application or request for payment or reimbursement is not
182 brought before the board for a decision not later than six months after
183 having been received by the board, then six months shall be added to
184 the deadline applicable pursuant to subdivision (1) or (2) of this
185 subsection, provided no more than two years shall be added to the
186 deadline established pursuant to subdivision (1) or (2) of this
187 subsection regardless of whether one or more applications or requests
188 for payment or reimbursement have been received by the board but
189 have not been brought before the board for a decision not later than six
190 months after receipt. In addition, if the commissioner determines that
191 an application or request for payment or reimbursement is ready for
192 decision by the board and such application or request has been placed
193 on the agenda for the meeting of the board, but cannot be brought
194 before the board because the board is unable to meet or cannot act on
195 such application or request, the deadlines established pursuant to
196 subdivision (1) or (2) of this subsection shall also be extended only for
197 that period that the board is unable to meet or is unable to act on such
198 application or request.

199 (4) The provisions of this subsection shall not apply to annual
200 groundwater remedial actions, including the preparation of a
201 groundwater remedial action progress report, performed pursuant to
202 subdivision (6) of section 22a-449p. Notwithstanding the provisions of
203 this subsection, the board may continue to receive applications or
204 requests for payment or reimbursement and provided all other
205 requirements have been met, may order payment or reimbursement
206 from the account for such activities.

207 (e) (1) Any person who has insurance, or a contract or other
208 agreement to provide payment or reimbursement for any costs,
209 expense or other obligation paid or incurred in response to a release or
210 suspected release may submit an application or request seeking

211 payment or reimbursement from the account to the board, provided
 212 any such application or request for payment or reimbursement shall be
 213 subject to all applicable requirements, including, but not limited to,
 214 subdivision (7) of subsection (c) of section 22a-449f.

215 (2) Any person who at any time receives or expects to receive
 216 payment or reimbursement from any source other than the account for
 217 any cost, expense, obligation, damage or injury for which such person
 218 has received or has applied for payment or reimbursement from the
 219 account, shall notify the board, in writing, of such supplemental or
 220 expected payment and shall, not more than thirty days after receiving
 221 such supplemental payment, repay the underground storage tank
 222 petroleum clean-up fund all such amounts received from any other
 223 source.

224 (3) If the board determines that a person is seeking or has sought
 225 payment or reimbursement for any cost, expense, obligation, damage
 226 or injury from the account and that payment or reimbursement for any
 227 such cost, expense, obligation, damage or injury is actually or
 228 potentially available to any such person from any source other than the
 229 account, the board may impose any conditions it deems reasonable
 230 regarding any amount it orders to be paid from the account.]

231 Sec. 3. Section 22a-449d of the 2006 supplement to the general
 232 statutes is repealed and the following is substituted in lieu thereof
 233 (*Effective October 1, 2006, and applicable to applications filed with the*
 234 *Underground Storage Tank Clean-Up Review Board on or after October 1,*
 235 *2006*):

236 (a) There is established an Underground Storage Tank Petroleum
 237 Clean-Up Account Review Board. Upon application for reimbursement
 238 or payment pursuant to section 22a-449f, as amended by this act, the
 239 board shall determine, based on the provisions of sections 22a-449a to
 240 22a-449i, inclusive, as amended by this act, and all regulations adopted
 241 pursuant to said sections 22a-449a to 22a-449i, inclusive, whether or
 242 not to order payment or reimbursement from the account. The board

243 shall receive reports from the Department of Environmental Protection
 244 concerning a release relating to an application. The board shall have
 245 the authority to order payment from the residential underground
 246 heating oil storage tank system clean-up subaccount to registered
 247 contractors pursuant to section 22a-449l, or to owners pursuant to
 248 section 22a-449n, for reasonable costs associated with the remediation
 249 of a residential underground heating oil storage tank system based on
 250 the guidelines established pursuant to subsection (c) of this section;
 251 hold hearings, administer oaths, subpoena witnesses and documents
 252 through its chairperson when authorized by the board; designate an
 253 agent to perform such duties of the board as it deems necessary except
 254 the duty to render a final decision to order reimbursement or payment
 255 from the account; and provide by notice, printed on any form, that any
 256 false statement made thereof or pursuant thereto is punishable
 257 pursuant to section 53a-157b. Not later than January 1, 2007, and
 258 annually thereafter, the board shall report to the joint standing
 259 committee of the General Assembly having cognizance of matters
 260 relating to the environment regarding the continuing needs of the
 261 program.

262 (b) The board shall consist of the [Commissioners] Commissioner of
 263 Environmental Protection, and [Revenue Services,] the Secretary of the
 264 Office of Policy and Management, [and the State Fire Marshal,] or their
 265 designees; one member representing the Connecticut Petroleum
 266 Council, appointed by the speaker of the House of Representatives;
 267 one member representing the Service Station Dealers Association,
 268 appointed by the majority leader of the Senate; one member of the
 269 public, appointed by the majority leader of the House of
 270 Representatives; one member representing the Independent
 271 Connecticut Petroleum Association, appointed by the president pro
 272 tempore of the Senate; one member representing the Gasoline and
 273 Automotive Service Dealers of America, Inc., appointed by the
 274 minority leader of the House of Representatives; one member
 275 representing a municipality with a population greater than one
 276 hundred thousand, appointed by the Governor; one member

277 representing a municipality with a population of less than one
278 hundred thousand, appointed by the minority leader of the Senate; one
279 member representing a [small manufacturing company which employs
280 fewer than seventy-five persons] Connecticut-based insurance
281 company with expertise in environmental impairment insurance,
282 appointed by the speaker of the House of Representatives; one
283 member experienced in the delivery, installation, and removal of
284 residential underground petroleum storage tanks and remediation of
285 contamination from such tanks, appointed by the president pro
286 tempore of the Senate; and one member who is an environmental
287 professional licensed under section 22a-133v and is experienced in
288 investigating and remediating contamination attributable to
289 underground petroleum storage tanks, appointed by the Governor.
290 The board shall annually elect one of its members to serve as
291 chairperson.

292 (c) Not later than July 1, 2000, the board shall establish guidelines
293 for determining what costs are reasonable for payment under sections
294 22a-449l and 22a-449n and shall establish requirements for financial
295 assurance, training and performance standards for registered
296 contractors, as defined in said sections 22a-449l and 22a-449n. The
297 board shall make payment pursuant to section 22a-449n to the owner
298 at a rate not to exceed one hundred fifty-seven dollars per ton of
299 contaminated soil removed which shall be considered as full payment
300 for all eligible costs for remediation. For any claim filed pursuant to
301 section 22a-449n where no contaminated soil is removed the board
302 shall reimburse eligible costs in accordance with the guidelines
303 pursuant to this section.

304 (d) To the extent that funds are available in the residential
305 underground heating oil storage tank system clean-up subaccount, the
306 board may order payment from such subaccount to registered
307 contractors for reimbursement of eligible costs for services associated
308 with the remediation of a residential underground heating oil storage
309 tank system prior to July 1, 2001, to owners of such systems for

310 payment for eligible costs incurred after July 1, 2001. No such payment
311 shall be authorized unless the board deems the costs reasonable based
312 on the guidelines established pursuant to subsection (c) of this section.
313 Notwithstanding the provisions of this subsection, if the board
314 determines that the owner may not receive reimbursement payment
315 from the contractor, the board may, if reimbursement has not been sent
316 to the contractor, directly reimburse the owner of such system for
317 eligible costs incurred by the owner and paid to the registered
318 contractor for services associated with a remediation of a system prior
319 to July 1, 2001.

320 Sec. 4. Section 12-587 of the 2006 supplement to the general statutes
321 is repealed and the following is substituted in lieu thereof (*Effective*
322 *October 1, 2006*):

323 (a) As used in this chapter: (1) "Company" includes a corporation,
324 partnership, limited partnership, limited liability company, limited
325 liability partnership, association, individual or any fiduciary thereof;
326 (2) "quarterly period" means a period of three calendar months
327 commencing on the first day of January, April, July or October and
328 ending on the last day of March, June, September or December,
329 respectively; (3) "gross earnings" means all consideration received
330 from the first sale within this state of a petroleum product; (4)
331 "petroleum products" means those products which contain or are
332 made from petroleum or a petroleum derivative; (5) "first sale of
333 petroleum products within this state" means the initial sale of a
334 petroleum product delivered to a location in this state; (6) "export" or
335 "exportation" means the conveyance of petroleum products from
336 within this state to a location outside this state for the purpose of sale
337 or use outside this state; and (7) "sale for exportation" means a sale of
338 petroleum products to a purchaser which itself exports such products.

339 (b) (1) Except as otherwise provided in subdivision (2) of this
340 subsection, any company which is engaged in the refining or
341 distribution, or both, of petroleum products and which distributes

342 such products in this state shall pay a quarterly tax on its gross
343 earnings derived from the first sale of petroleum products within this
344 state. Each company shall on or before the last day of the month next
345 succeeding each quarterly period render to the commissioner a return
346 on forms prescribed or furnished by the commissioner and signed by
347 the person performing the duties of treasurer or an authorized agent or
348 officer, including the amount of gross earnings derived from the first
349 sale of petroleum products within this state for the quarterly period
350 and such other facts as the commissioner may require for the purpose
351 of making any computation required by this chapter. Except as
352 otherwise provided in subdivision (3) of this subsection, the rate of tax
353 shall be (A) five per cent with respect to calendar quarters prior to July
354 1, 2005; (B) five and eight-tenths per cent with respect to calendar
355 quarters commencing on or after July 1, 2005, and prior to July 1, 2006;
356 (C) six and three-tenths per cent with respect to calendar quarters
357 commencing on or after July 1, 2006, and prior to July 1, 2007; (D)
358 seven per cent with respect to calendar quarters commencing on or
359 after July 1, 2007, and prior to July 1, 2008; (E) seven and one-half per
360 cent with respect to calendar quarters commencing on or after July 1,
361 2008, and prior to July 1, 2013; and (F) eight and one-tenth per cent
362 with respect to calendar quarters commencing on or after July 1, 2013.

363 (2) Gross earnings derived from the first sale of the following
364 petroleum products within this state shall be exempt from tax: (A) Any
365 petroleum products sold for exportation from this state for sale or use
366 outside this state; (B) the product designated by the American Society
367 for Testing and Materials as "Specification for Heating Oil D396-69",
368 commonly known as number 2 heating oil, to be used exclusively for
369 heating purposes or to be used in a commercial fishing vessel, which
370 vessel qualifies for an exemption pursuant to section 12-412, as
371 amended; (C) kerosene, commonly known as number 1 oil, to be used
372 exclusively for heating purposes, provided delivery is of both number
373 1 and number 2 oil, and via a truck with a metered delivery ticket to a
374 residential dwelling or to a centrally metered system serving a group
375 of residential dwellings; (D) the product identified as propane gas, to

376 be used exclusively for heating purposes; (E) bunker fuel oil,
 377 intermediate fuel, marine diesel oil and marine gas oil to be used in
 378 any vessel having a displacement exceeding four thousand dead
 379 weight tons; (F) for any first sale occurring prior to July 1, 2008,
 380 propane gas to be used as a fuel for a motor vehicle; (G) for any first
 381 sale occurring on or after July 1, 2002, grade number 6 fuel oil, as
 382 defined in regulations adopted pursuant to section 16a-22c, to be used
 383 exclusively by a company which, in accordance with census data
 384 contained in the Standard Industrial Classification Manual, United
 385 States Office of Management and Budget, 1987 edition, is included in
 386 code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in
 387 the North American Industrial Classification System United States
 388 Manual, United States Office of Management and Budget, 1997 edition;
 389 (H) for any first sale occurring on or after July 1, 2002, number 2
 390 heating oil to be used exclusively in a vessel primarily engaged in
 391 interstate commerce, which vessel qualifies for an exemption under
 392 section 12-412, as amended; (I) for any first sale occurring on or after
 393 July 1, 2000, paraffin or microcrystalline waxes; or (J) for any first sale
 394 occurring prior to July 1, 2008, petroleum products to be used as a fuel
 395 for a fuel cell, as defined in subdivision (113) of section 12-412, as
 396 amended.

397 (3) The rate of tax on gross earnings derived from the first sale of
 398 grade number 6 fuel oil, as defined in regulations adopted pursuant to
 399 section 16a-22c, to be used exclusively by a company which, in
 400 accordance with census data contained in the Standard Industrial
 401 Classification Manual, United States Office of Management and
 402 Budget, 1987 edition, is included in code classifications 2000 to 3999,
 403 inclusive, or in Sector 31, 32 or 33 in the North American Industrial
 404 Classification System United States Manual, United States Office of
 405 Management and Budget, 1997 edition, or number 2 heating oil used
 406 exclusively in a vessel primarily engaged in interstate commerce,
 407 which vessel qualifies for an exemption under section 12-412, as
 408 amended, shall be: (A) Four per cent with respect to calendar quarters
 409 commencing on or after July 1, 1998, and prior to July 1, 1999; (B) three

410 per cent with respect to calendar quarters commencing on or after July
411 1, 1999, and prior to July 1, 2000; (C) two per cent with respect to
412 calendar quarters commencing on or after July 1, 2000, and prior to
413 July 1, 2001; and (D) one per cent with respect to calendar quarters
414 commencing on or after July 1, 2001, and prior to July 1, 2002.

415 (c) (1) Any company which imports or causes to be imported into
416 this state petroleum products for sale, use or consumption in this state,
417 other than a company subject to and having paid the tax on such
418 company's gross earnings from first sales of petroleum products
419 within this state, which earnings include gross earnings attributable to
420 such imported or caused to be imported petroleum products, in
421 accordance with subsection (b) of this section, shall pay a quarterly tax
422 on the consideration given or contracted to be given for such
423 petroleum product if the consideration given or contracted to be given
424 for all such deliveries during the quarterly period for which such tax is
425 to be paid exceeds three thousand dollars. Except as otherwise
426 provided in subdivision (3) of this subsection, the rate of tax shall be
427 (A) five per cent with respect to calendar quarters commencing prior to
428 July 1, 2005; (B) five and eight-tenths per cent with respect to calendar
429 quarters commencing on or after July 1, 2005, and prior to July 1, 2006;
430 (C) six and three-tenths per cent with respect to calendar quarters
431 commencing on or after July 1, 2006, and prior to July 1, 2007; (D)
432 seven per cent with respect to calendar quarters commencing on or
433 after July 1, 2007, and prior to July 1, 2008; (E) seven and one-half per
434 cent with respect to calendar quarters commencing on or after July 1,
435 2008, and prior to July 1, 2013; and (F) eight and one-tenth per cent
436 with respect to calendar quarters commencing on or after July 1, 2013.
437 Fuel in the fuel supply tanks of a motor vehicle, which fuel tanks are
438 directly connected to the engine, shall not be considered a delivery for
439 the purposes of this subsection.

440 (2) Consideration given or contracted to be given for petroleum
441 products, gross earnings from the first sale of which are exempt from
442 tax under subdivision (2) of subsection (b) of this section, shall be

443 exempt from tax.

444 (3) The rate of tax on consideration given or contracted to be given
 445 for grade number 6 fuel oil, as defined in regulations adopted
 446 pursuant to section 16a-22c, to be used exclusively by a company
 447 which, in accordance with census data contained in the Standard
 448 Industrial Classification Manual, United States Office of Management
 449 and Budget, 1987 edition, is included in code classifications 2000 to
 450 3999, inclusive, or in Sector 31, 32 or 33 in the North American
 451 Industrial Classification System United States Manual, United States
 452 Office of Management and Budget, 1997 edition, or number 2 heating
 453 oil used exclusively in a vessel primarily engaged in interstate
 454 commerce, which vessel qualifies for an exemption under section 12-
 455 412, as amended, shall be: (A) Four per cent with respect to calendar
 456 quarters commencing on or after July 1, 1998, and prior to July 1, 1999;
 457 (B) three per cent with respect to calendar quarters commencing on or
 458 after July 1, 1999, and prior to July 1, 2000; (C) two per cent with
 459 respect to calendar quarters commencing on or after July 1, 2000, and
 460 prior to July 1, 2001; and (D) one per cent with respect to calendar
 461 quarters commencing on or after July 1, 2001, and prior to July 1, 2002.

462 (d) The amount of tax reported to be due on such return shall be
 463 due and payable on or before the last day of the month next
 464 succeeding the quarterly period. The tax imposed under the provisions
 465 of this chapter shall be in addition to any other tax imposed by this
 466 state on such company. The Commissioner of Revenue Services shall
 467 provide the company submitting the tax with a credit on the amount of
 468 tax due in accordance with the estimates determined pursuant to
 469 subsection (f) of this section, which the company shall deposit into the
 470 underground storage tank petroleum clean-up account, established
 471 pursuant to section 22a-449f, as amended by this act.

472 (e) For the purposes of this chapter, the gross earnings of any
 473 producer or refiner of petroleum products operating a service station
 474 along the highways or interstate highways within the state pursuant to

475 a contract with the Department of Transportation or operating a
 476 service station which is used as a training or test marketing center
 477 under the provisions of subsection (b) of section 14-344d, shall be
 478 calculated by multiplying the volume of petroleum products delivered
 479 by any producer or refiner to any such station by such producer's or
 480 refiner's dealer tank wagon price or dealer wholesale price in the area
 481 of the service station.

482 (f) Not later than thirty days after every quarterly period, the
 483 Commissioner of Revenue Services shall conduct a review to estimate
 484 the percentage of the revenues collected pursuant to this section
 485 during such quarter that are necessary to fund the underground
 486 storage tank petroleum clean-up account in the amount of eighteen
 487 million dollars for the fiscal year ending June 30, 2007, and six million
 488 dollars annually thereafter, provided the amount in the account is not
 489 in excess of eighteen million dollars.

490 Sec. 5. Section 22a-449e of the 2006 supplement to the general
 491 statutes is repealed and the following is substituted in lieu thereof
 492 (*Effective October 1, 2006, and applicable to applications filed with the*
 493 *Underground Storage Tank Clean-Up Review Board on or after October 1,*
 494 *2006):*

495 (a) The [Commissioner of Environmental Protection, after
 496 consultation with the members of the board established by section 22a-
 497 449d,] Underground Storage Tank Petroleum Clean-Up Board shall
 498 adopt regulations in accordance with the provisions of chapter 54
 499 setting forth procedures for reimbursement and payment from the
 500 account established under section 22a-449c, as amended by this act.
 501 Such regulations shall include such provisions as the [commissioner]
 502 board deems necessary to carry out the purposes of sections 22a-449a
 503 to 22a-449h, inclusive, as amended by this act, including, but not
 504 limited to, provisions for (1) notification of eligible parties of the
 505 existence of the account; (2) records required for submission of claims
 506 and reimbursement and payment; (3) periodic and partial

507 reimbursement and payment to enable responsible parties to meet
508 interim costs, expenses and obligations; and (4) reimbursement and
509 payment for costs, expenses and obligations incurred in connection
510 with releases or suspected releases, and incurred after July 5, 1989, for
511 releases discovered before or after said date provided reimbursement
512 and payment shall not be made for costs, expenses and obligations
513 incurred by a responsible party on or before said date.

514 (b) (1) The [commissioner] board, in accordance with the procedures
515 set forth in subdivision (2) of this subsection, may prescribe a schedule
516 for the maximum or range of amounts to be paid from the account for
517 labor, equipment, materials, services or other costs, expenses or
518 obligations paid or incurred as a result of a release or suspected
519 release. Such schedule shall not be a regulation, as defined in section 4-
520 166 and the adoption, modification, repeal or use of such schedule
521 shall not be subject to the provisions of chapter 54 concerning a
522 regulation. The amounts in any such schedule [may be less than and]
523 shall [be] not be more than the usual, customary and reasonable
524 amounts charged, as determined by the [commissioner] board.
525 Notwithstanding the provisions of sections 22a-449a to 22a-449j,
526 inclusive, as amended by this act, or any regulation adopted by the
527 [commissioner] board pursuant to this section, upon adoption of any
528 such schedule, the amount to be paid from the account for any labor,
529 equipment, materials, services or other costs, expenses or other
530 obligations, shall not exceed the amount established in any such
531 schedule and such schedule. [may serve as guidance with respect to
532 any costs, expenses or other obligations paid or incurred before the
533 adoption of such schedule.]

534 (2) The [commissioner] board shall adopt, revise or revoke said
535 schedule in accordance with the provisions of this subsection. [After
536 consultation with the board, the commissioner] The board shall
537 publish notice of intent to adopt, revise or revoke the schedule, or any
538 portion thereof, in a newspaper having substantial circulation in the
539 affected area. There shall be a comment period of thirty days following

540 publication of such notice during which interested persons may
541 submit written comments to the [commissioner] board. The
542 [commissioner] board shall publish notice of the adoption, revision or
543 revocation of the schedule, or part thereof, in a newspaper having
544 substantial circulation in the affected area. The [commissioner] board
545 shall, [upon request,] review and shall make any revisions the
546 [commissioner] board deems necessary to such schedule not [more]
547 less than once every two years or may do so more frequently as the
548 [commissioner] board deems necessary, or upon written request by
549 any person. The [commissioner, after consultation with the board,]
550 board may revise or revoke the schedule, in whole or in part, using the
551 procedures specified in this subsection. Any person may request, in
552 writing, that the [commissioner] board adopt, revise or revoke the
553 schedule in accordance with this subsection.

554 (c) Upon adoption of a schedule by the [commissioner] board
555 pursuant to subsection (b) of this section, the requirements concerning
556 obtaining three bids for services rendered contained in regulations
557 adopted pursuant to this section shall not apply, provided that the
558 schedule includes the subject services.

559 (d) An environmental professional, who has a currently valid and
560 effective license issued pursuant to section 22a-133v, shall use a seal, as
561 provided for in regulations adopted pursuant to section 22a-133v, to
562 provide written approval required under sections 22a-449c, as
563 amended by this act, 22a-449f, as amended by this act, and 22a-449p,
564 and any approval without a seal shall not constitute an approval of a
565 licensed environmental professional. The regulations adopted
566 pursuant to section 22a-133v regarding the use of a seal and the rules
567 of professional conduct shall apply to the duties of a licensed
568 environmental professional contained in sections 22a-449a to 22a-449i,
569 inclusive, as amended by this act, and 22a-449p.

570 Sec. 6. Section 22a-449f of the 2006 supplement to the general
571 statutes is repealed and the following is substituted in lieu thereof

572 *(Effective October 1, 2006, and applicable to applications filed with the*
 573 *Underground Storage Tank Clean-Up Review Board on or after October 1,*
 574 *2006):*

575 (a) A responsible party may apply to the Underground Storage
 576 Tank Petroleum Clean-Up Account Review Board established under
 577 section 22a-449d, as amended by this act, for reimbursement for costs
 578 paid and payment of costs incurred as a result of a release, or a
 579 suspected release, including costs of investigating and remediating a
 580 release, or a suspected release, incurred or paid by such party. [who is
 581 determined not to have been liable for any such release.] If a person
 582 other than a responsible party, claims to have suffered bodily injury,
 583 property damage or damage to natural resources from a release, the
 584 person with such claim shall make reasonable attempts to provide
 585 written notice to the responsible party of such claim and if such person
 586 cannot provide such notice or if the responsible party does not apply
 587 to the board for payment of such claim not later than sixty days after
 588 receipt of such notice or such other time as may be agreed to by the
 589 parties, the person holding such claim may apply to the board for
 590 payment for such damage or bodily injury.

591 (b) (1) In addition to all other applicable requirements, a person
 592 seeking payment or reimbursement from the account shall
 593 demonstrate that when the total costs, expenses or other obligations in
 594 response to a release or suspected release (A) are two hundred fifty
 595 thousand dollars or less, that all labor, equipment and materials
 596 provided after October 1, 2005, and all services and activities
 597 undertaken after October 1, 2005, shall be approved, in writing, either
 598 by the [commissioner] Commissioner of Environmental Protection or
 599 by a licensed environmental professional with a currently valid and
 600 effective license issued pursuant to section 22a-133v; and (B) exceeds
 601 two hundred fifty thousand dollars, that all labor, equipment and
 602 materials provided after October 1, 2005, and all services and activities
 603 undertaken after October 1, 2005, shall be approved, in writing, by the
 604 [commissioner] Commissioner of Environmental Protection or that the

605 commissioner has authorized, in writing, an environmental
606 professional with a currently valid and effective license issued
607 pursuant to section 22a-133v to approve, in writing, such labor,
608 equipment, materials, services and activities, in lieu of a written
609 approval by the commissioner. If the commissioner receives a written
610 request for such authorization of an environmental professional with
611 respect to a particular release or suspected release and does not
612 approve or deny such request prior to thirty days after receipt, the
613 request of the environmental professional shall be deemed to be
614 authorized. If the commissioner denies a request for such
615 authorization, the commissioner shall approve or disapprove such
616 labor, equipment, materials, services and activities not later than thirty
617 days after such denial. If the commissioner disapproves any such
618 labor, equipment, materials, services or activities, the commissioner
619 shall specify the labor, equipment, materials, services or activities
620 disapproved, and shall provide a written statement of the reasons for
621 such disapproval. The provisions of this subsection shall apply to all
622 costs, expenses or other obligations for which a person is seeking
623 payment or reimbursement from the account and the board shall not
624 order [and the commissioner shall not] or make payment or
625 reimbursement from the account for any cost, expense or other
626 obligation, unless the person seeking such payment or reimbursement
627 includes with an application or with a request for payment or
628 reimbursement all written approvals required by this subdivision.

629 (2) The fees charged by a licensed environmental professional
630 regarding labor or services rendered in response to a release or
631 suspected release may be included in any application or request for
632 payment or reimbursement submitted to the board. The amount to be
633 paid or reimbursed from the account for such fees may also be
634 established in the schedule adopted by the [commissioner] board
635 pursuant to subsection (b) of section 22a-449e, as amended by this act.

636 (3) Providing it is true and accurate, a licensed environmental
637 professional shall submit the following certification regarding any

638 approval provided under subdivision (1) of this subsection and section
 639 22a-449p: "I hereby agree that all of the labor, equipment, materials,
 640 services, and activities described in or covered by this certification was
 641 appropriate under the circumstances to abate an emergency or was
 642 performed as part of a plan specifically designed to ensure that the
 643 release or suspected release is or has been investigated in accordance
 644 with prevailing standards and guidelines and remediated consistent
 645 with and to achieve compliance with the remediation standards
 646 adopted under section 22a-133k of the general statutes."

647 (c) The board shall order reimbursement or payment from the
 648 account to a responsible party applicant for any cost paid or incurred,
 649 as the case may be, if, (1) such cost is or was incurred after July 5, 1989,
 650 (2) a responsible party was or would have been required to
 651 demonstrate financial responsibility under 40 CFR Part 280.90 et seq.
 652 as said regulation was published in the Federal Register of October 26,
 653 1988, for the underground storage tank or underground storage tank
 654 system from which the release emanated, whether or not such party is
 655 required to comply with said requirements on the date any such cost is
 656 incurred, provided if the state is the responsible party, the board may
 657 order payment from the account without regard to whether the state
 658 was or would have been required to demonstrate financial
 659 responsibility under said sections 40 CFR Part 280.90 et seq., (3) after
 660 the release, if any, the responsible party incurred a cost, expense or
 661 obligation for investigation, cleanup or for claims of a person other
 662 than a responsible party resulting from the release, or suspected
 663 release provided any such claim shall be required to be finally
 664 adjudicated or settled with the prior written approval of the board
 665 before an application for reimbursement or payment is made, (4) the
 666 board determines that [the cost, expense or other obligation is
 667 reasonable and that] there are not grounds for recovery specified in
 668 subdivision (1) or (3) of subsection (g) of this section, (5) the
 669 responsible party notified the commissioner of the release in
 670 accordance with regulations adopted pursuant to section 22a-449, as
 671 amended, or, where such regulations are not applicable, as soon as

672 practicable, and notified the board, as soon as practicable, of any claim
673 by a person other than a responsible party, resulting from the release,
674 (6) the responsible party, or, if a person other than a responsible party
675 applies for payment or reimbursement from the account, then such
676 person demonstrates the remediation, including any monitoring to
677 determine the effectiveness of the remediation, for which payment or
678 reimbursement is sought is not more stringent than that required by
679 the remediation standards established pursuant to section 22a-133k,
680 except to the extent the responsible party or such person demonstrates
681 that it has been directed otherwise, in writing, by the commissioner, (7)
682 [the responsible party, or, if a person other than a responsible party
683 applies for payment or reimbursement from the account, then such
684 person demonstrates that it does not have insurance, or a contract or
685 other agreement to provide payment or reimbursement for any cost,
686 expense or other obligation incurred in response to a release or
687 suspected release, or if there is any such insurance, contract or other
688 agreement, that any insurance coverage has been denied or is
689 insufficient to cover the costs, expenses or other obligations, paid or
690 incurred or that any contract or other agreement is not able to or is
691 insufficient to cover the costs, expenses or other obligations, paid or
692 incurred, for which payment or reimbursement is sought from the
693 account] the costs, expenses or obligations for which reimbursement or
694 payment is sought are consistent with the schedule adopted by the
695 board pursuant to section 22a-449e, as amended by this act, or, if such
696 costs, expenses or obligations were incurred prior to the effective date
697 of such schedule or are not addressed by such schedule, are
698 reasonable, (8) the responsible party demonstrates and the board
699 determines that one of the milestones noted in section 22a-449p has
700 been completed, and that the application was received by the board
701 not later than one year after the completion of all or substantially all of
702 the work or activities necessary to prepare the plan or report required
703 by the applicable milestone, (9) the board determines what, if any,
704 reductions to the amounts sought from the account should be made
705 based upon the compliance evaluations performed pursuant to

706 subsection (d) of this section, and (10) if at the time [any] the initial
 707 application or request for payment or reimbursement [, including any
 708 supplemental application or request, is] with respect to a release or
 709 suspected release is submitted to the board, there [is] no longer are
 710 underground storage tank [system dispensing petroleum] systems on
 711 the property where the release or suspected release emanated or
 712 occurred, then the responsible party demonstrates, in addition to all
 713 other applicable requirements, that lack of compliance with provisions
 714 of the general statutes and regulations governing underground storage
 715 tank systems was not a proximate cause of the release or suspected
 716 release and that there are not grounds for recovery specified in
 717 subdivision (2) of subsection (g) of this section. In acting on an
 718 application or a request for payment or reimbursement, the board,
 719 using funds from the account, may contract with experts, including,
 720 but not limited to, attorneys and medical professionals, to better
 721 evaluate and defend against claims and negotiate claims by persons
 722 other than responsible parties. [The costs of the board for experts shall
 723 not be charged to the amount allocated to the Department of
 724 Environmental Protection pursuant to section 22a-449c.] If a person
 725 other than a responsible party applies to the board claiming to have
 726 suffered bodily injury, property damage or damage to natural
 727 resources, the board shall order reimbursement or payment from the
 728 account if such person demonstrates that subdivisions (1), (2), (6) and
 729 (7) of this subsection are satisfied, the board determines that as a result
 730 of a release or suspected release such person has suffered bodily
 731 injury, property damage or damage to natural resources, that the costs,
 732 expenses or other obligations incurred are reasonable and the person
 733 submitting such claim demonstrates that it has attempted to or has
 734 provided written notice of its claim to the responsible party as
 735 required in subsection (a) of this section and that the responsible party
 736 has not applied to the board for payment or reimbursement of this
 737 claim.

738 (d) (1) Except as provided in this subsection, if at the time [any] the
 739 initial application or request for payment or reimbursement is

740 submitted by a responsible party to the board, [including any
 741 supplemental application or request, there is an] there are any
 742 underground storage tank [system dispensing petroleum] systems on
 743 the property where the release or suspected release emanated or
 744 occurred, such application or request shall not be deemed complete
 745 and shall not be acted upon by the board unless such application or
 746 request includes a summary of the compliance status of all the
 747 underground storage tank systems on the subject property. Any such
 748 summary shall include an evaluation of compliance with the design,
 749 construction, installation, notification, general operating, release
 750 detecting, system upgrading, abandonment and removal date
 751 requirements of the regulations adopted pursuant to [sections] section
 752 22a-449, as amended, and with the requirements of section 22a-449o
 753 and shall be prepared by an independent consultant on a form
 754 [prescribed by or acceptable to the commissioner] developed by the
 755 board, in consultation with the commissioner. The summary shall be
 756 based on an evaluation of said underground storage tank systems
 757 performed not more than one hundred eighty days before the board
 758 receives an application or a request for reimbursement or payment,
 759 except that with respect to any provision of the subject regulations
 760 regarding record keeping, periodic monitoring or testing, the summary
 761 shall be based on an evaluation of a one-year period terminating
 762 within one hundred eighty days prior to the board's receipt of an
 763 application or a request for payment or reimbursement. The summary
 764 shall also include a full description of all corrective measures that have
 765 been taken or that are being taken with regard to any noncompliance
 766 identified in the compliance evaluation performed pursuant to this
 767 subdivision.

768 (2) [With respect to any initial application or request for payment or
 769 reimbursement regarding a release or suspected release the] The
 770 provisions of subdivision (1) of this subsection shall apply [only] to
 771 initial applications or requests received on or after January 1, 2006.
 772 With respect to any supplemental application or request for payment
 773 or reimbursement regarding a release or suspected release, for which

774 an initial application was submitted on or after January 1, 2006, the
 775 provisions of subdivision (1) of this subsection shall apply to each such
 776 supplemental application or request, [submitted to the board on or
 777 after January 1, 2006, regardless of when the initial application or
 778 request was submitted,] except that submission of a compliance
 779 summary shall not be required if at the time [a] such supplemental
 780 application or request is submitted, less than one year has passed since
 781 the performance of a compliance evaluation submitted with any prior
 782 application or request.

783 (3) The cost of hiring an independent consultant to perform a
 784 compliance evaluation, as required by this subsection, shall be eligible
 785 for payment or reimbursement from the account up to a maximum of
 786 one thousand dollars per compliance evaluation, provided the
 787 evaluation is in conformance with the requirements of this subsection
 788 and includes all underground storage tank systems on the property
 789 where a release or suspected release emanated or occurred. If the
 790 schedule adopted by the [commissioner] board pursuant to subsection
 791 (b) of section 22a-449e, as amended by this act, includes an amount for
 792 performing a compliance evaluation, upon adoption of any such
 793 schedule, the amount eligible for payment or reimbursement for
 794 performing a compliance evaluation shall be the amount prescribed in
 795 any such schedule.

796 (4) Nothing in this subsection shall affect the continued applicability
 797 of any decision of the board to (A) deny reimbursement or payment
 798 from the account, or (B) provide only partial payment or
 799 reimbursement regarding all applications or requests for payment or
 800 reimbursement from the account. Any such decision shall remain in
 801 effect and shall not be subject to reconsideration or reevaluation as a
 802 result of this subsection.

803 [(5) Except as provided for in this subdivision, if at the time any
 804 application or request for payment or reimbursement, including any
 805 supplemental application or request, is submitted, there is no

806 underground storage tank system dispensing petroleum on the
807 property where the release or suspected release emanated or occurred,
808 any such application or request shall be subject to the provisions of
809 subdivision (10) of subsection (c) of this section, even where a prior
810 application or request was subject to the provisions of this subsection.
811 The provisions of this subdivision shall not apply to an application or
812 request for payment or reimbursement for annual groundwater
813 remedial actions, including the preparation of a groundwater remedial
814 action progress report, performed pursuant to subdivision (6) of
815 section 22a-449p.]

816 (e) (1) If the compliance evaluation summary performed pursuant to
817 subsection (d) of this section indicates that any of the violations noted
818 in this subdivision exist with respect to any underground storage tank
819 or underground storage tank system on the property at which a release
820 or suspected release occurred and any such violations have not been
821 fully corrected by the time an application or request for reimbursement
822 is submitted to the board, the board shall reduce any payment or
823 amount to be reimbursed as follows: (A) A one hundred per cent
824 reduction of the payment or amount to be reimbursed for failure to
825 meet the tank or piping construction requirements of section 22a-449o
826 or the regulations adopted pursuant to section 22a-449, as amended, or
827 for failure to report the release to the commissioner as required by this
828 section, (B) a seventy-five per cent reduction of the payment or amount
829 to be reimbursed for failure to have properly functioning cathodic
830 protection, spill prevention, overfill prevention, or release detection as
831 required by the regulations adopted pursuant to section 22a-449, as
832 amended. Notwithstanding the provisions of this subsection, the board
833 may reduce any amount to be paid or reimbursed based on any other
834 violation of the provisions of the general statutes or regulations of
835 Connecticut state agencies regarding ownership or operation of an
836 underground storage tank system if such violation has not been fully
837 corrected by the time an application or request for reimbursement is
838 submitted to the board.

839 (2) Nothing in this subsection and no determination by the board of
840 any issue of fact or law shall affect the authority of the commissioner
841 under any other statute or regulations, including, but not limited to,
842 taking any enforcement action based upon the violations identified in
843 any compliance evaluation performed pursuant to subsection (d) of
844 this section.

845 (f) (1) For all work or services performed or materials provided
846 before October 1, 2004, the board shall not order payment or
847 reimbursement from the account for any cost paid or incurred, unless
848 when seeking payment or reimbursement, the application or any
849 submission regarding work, services or materials that have been pre-
850 authorized by the board is received by the board on or before April 1,
851 2005.

852 (2) For purposes of this subsection, work or services shall be
853 deemed rendered or performed on the date such work is rendered or
854 performed and a material shall be deemed provided on the date a
855 material is made available for use.

856 (3) After June 30, 2005, the board shall not order payment or
857 reimbursement from the account for any cost, expense or other
858 obligation, paid or incurred, unless the application or request for
859 payment or reimbursement is received by the board not later than one
860 year after the completion of all or substantially all of the work or
861 activities necessary to prepare the plan or report required by the
862 milestones set forth in section 22a-449p.

863 (g) The Attorney General, upon the request of the board, [or the
864 commissioner,] may institute an action in the superior court for the
865 judicial district of Hartford to recover the amounts specified in this
866 section from any person who owns or operates an underground
867 storage tank system at the time a release emanates or occurs from such
868 system or any person who owns the real property on which a release
869 emanates or occurs, provided such person owned the real property at
870 or any time after the release emanates or occurs until the time that a

871 final remediation action report is submitted by a licensed
 872 environmental professional or approved by the commissioner
 873 pursuant to subdivision (7) of section 22a-449p, if: (1) Prior to the
 874 occurrence of the release, the underground storage tank or
 875 underground storage tank system from which the release emanated
 876 was required by regulations adopted under section 22a-449, as
 877 amended by this act, to submit a notification to the commissioner but
 878 [no such notification was provided] the responsible party knowingly
 879 and intentionally failed to notify the commissioner; (2) the release
 880 results from a reckless, wilful, wanton or intentional act or omission of
 881 [such person or a negligent act or omission of such person that
 882 constitutes noncompliance with the general statutes or regulations
 883 governing the installation, operation and maintenance of underground
 884 storage tanks] a responsible party; or (3) the release occurs from an
 885 underground storage tank or system which is not in compliance with a
 886 final order issued by the commissioner pursuant to this chapter or a
 887 final judgment issued by a court concerning noncompliance with a
 888 requirement of this chapter and such lack of compliance with the final
 889 order or final judgment was a proximate cause of such release; or (4)
 890 payment has been made from the account [, including payment to the
 891 commissioner pursuant to subsection (i) of this section,] to a person
 892 other than a person against whom an action may be brought pursuant
 893 to this subsection. All costs to the state relating to actions to recover
 894 such payments, including, but not limited to, reasonable attorneys'
 895 fees, shall initially be paid from the underground storage tank
 896 petroleum clean-up account. In any recovery the board [or the
 897 commissioner] is entitled to recover from such person (A) all payments
 898 made from the account with respect to a release or suspected release,
 899 (B) [all payments made by the commissioner pursuant to subsection (i)
 900 of this section with respect to a release or suspected release, (C)]
 901 interest on such payments at a rate of ten per cent per year from the
 902 date such payments were made, and [(D)] (C) all costs of the state
 903 relating to actions to recover such payments, including, but not limited
 904 to, reasonable attorneys' fees. All actions brought pursuant to this

905 section shall have precedence in the order of trial, as provided in
906 section 52-191. If the Attorney General has filed an action against a
907 person seeking recovery of the amounts specified in this subsection or
908 if the commissioner sends a person a demand letter regarding costs
909 incurred by the state pursuant to section 22a-451, any such person
910 against whom an action has been brought or who receives a demand
911 letter shall not submit an application or request for payment or
912 reimbursement to the board seeking payment or reimbursement of any
913 such amount sought by the Attorney General or by the commissioner.
914 If any such application or request for payment or reimbursement is
915 submitted, the board shall not take any action regarding any such
916 application or request.

917 (h) The board shall render its decision not more than ninety days
918 after receipt of an application from a person, provided, in the case of a
919 second or subsequent application, the board shall render its decision
920 not more than forty-five days after receipt of such application. A copy
921 of the decision shall be sent to [the commissioner and] the person
922 seeking payment or reimbursement by certified mail, return receipt
923 requested. The [commissioner or any person aggrieved by the decision
924 of the board] person seeking payment or reimbursement may, within
925 twenty days from the date of issuance of such decision, request a
926 hearing before the board in accordance with the provisions of chapter
927 54. After such hearing, the board shall consider the information
928 submitted to it and affirm or modify its decision on the application. A
929 copy of the affirmed or modified decision shall be sent to [all parties to
930 the hearing] the person seeking payment or reimbursement by
931 certified mail, return receipt requested. Once the board renders a
932 decision regarding an application or request for payment or
933 reimbursement and no hearing has been requested pursuant to this
934 subsection regarding any such decision, the costs, expenses or other
935 obligations addressed by any such decision shall not be resubmitted in
936 any other application or request.

937 (i) Whenever the commissioner determines that as a result of a

938 release, as defined in section 22a-449a, as amended by this act, or a
 939 suspected release, a clean-up is necessary, including, but not limited to,
 940 actions to prevent or abate pollution or a potential source of pollution
 941 and to provide potable drinking water [.] and the commissioner [may
 942 undertake such actions using not more than one million dollars from
 943 the underground storage tank petroleum clean-up account for each
 944 release or suspected release from an underground storage tank or an
 945 underground storage tank system for which the responsible party is
 946 the state or for which a responsible party was or would have been
 947 required to demonstrate financial responsibility under 40 CFR Part
 948 280.90 et seq., as said regulation was published in the Federal Register
 949 of October 26, 1988] undertakes such a clean-up, the commissioner
 950 may apply for reimbursement or payment from the account pursuant
 951 to this section.

952 (j) (1) If, [through] with respect to a release or suspected release for
 953 which an initial application or request for payment or reimbursement
 954 was received by the board before June 1, 2005, the board has
 955 determined that a person has paid or incurred costs, expenses or other
 956 obligations that are eligible for payment or reimbursement from the
 957 account, the following shall apply with respect to any supplemental
 958 application or request for payment or reimbursement. [the following
 959 shall apply.] The [commissioner] board may identify a category of
 960 activities, costs, expenses, or other obligations that are less than one
 961 hundred thousand dollars for which, in lieu of full payment, the board
 962 may approve a percentage of the costs, expenses or other obligations
 963 paid or incurred. In [making any such recommendation to the board,
 964 the commissioner] identifying such categories and approving such
 965 percentages, the board shall consider the amounts previously paid
 966 from the account and any other information the [commissioner] board
 967 deems relevant. Any such percentage shall be not more than, but may
 968 be less than, ninety per cent of the average amount, as determined by
 969 the [commissioner] board, previously paid from the account for any
 970 activity, cost, expense or obligation. [The board shall approve or
 971 disapprove, but shall not modify, payment of the percentage

972 recommended by the commissioner pursuant to this subdivision.] The
973 [commissioner] board may, using the procedures specified in this
974 subdivision, [recommend] make changes to any percentage previously
975 approved by the board under this subdivision.

976 (2) If the board approves payment of the percentage, [recommended
977 by the commissioner,] a person with a supplemental application or
978 request for payment or reimbursement may agree to accept the
979 percentage payment approved by the board. Any such acceptance
980 shall be in writing, signed by the person seeking payment or
981 reimbursement and shall acknowledge that the person is agreeing to
982 accept less than the full amount sought by such person for the costs,
983 expenses or other obligations covered by such acceptance. [If the
984 commissioner has prescribed forms, any such acceptance shall be
985 made using the forms prescribed by the commissioner.] The board
986 may prescribe a form to be used for any such acceptance. Once a
987 completed written acceptance is received, the board shall, not later
988 than ninety days after receiving such acceptance, determine whether to
989 order payment or reimbursement from the account. Any such
990 determination by the board shall be limited to whether the costs,
991 expenses or other obligations are within those for which the board has
992 approved payment pursuant to subdivision (1) of this subsection.

993 (3) Any amount ordered to be paid or reimbursed by the board shall
994 be considered full payment for any such activity, expense or other
995 obligation and a person shall not seek any additional reimbursement
996 from the account for any such activity, expense or other obligation. The
997 categories or activities for which the [commissioner recommends]
998 board approves payment of a percentage pursuant to this subsection
999 may constitute all or a portion of the amounts sought in a
1000 supplemental application or supplemental request for payment or
1001 reimbursement.

1002 (k) Notification to the commissioner pursuant to regulations
1003 adopted pursuant to section 22a-449, as amended by this act, shall

1004 constitute compliance with any regulation adopted pursuant to section
1005 22a-449e, as amended by this act, regarding notification to the board of
1006 a release. The commissioner shall promptly notify the board of any
1007 notification of a release received by the commissioner.

1008 Sec. 7. Section 22a-449g of the general statutes is repealed and the
1009 following is substituted in lieu thereof (*Effective October 1, 2006, and*
1010 *applicable to applications filed with the Underground Storage Tank Clean-Up*
1011 *Review Board on or after October 1, 2006*):

1012 The [Commissioner of Environmental Protection or any] person
1013 [aggrieved by a decision of the review board established under section
1014 22a-449d] seeking payment or reimbursement may appeal from such
1015 decision by the board following a hearing pursuant to section 22a-449f,
1016 as amended by this act, to the superior court for the judicial district of
1017 New Britain within twenty days after the issuance of such decision.
1018 Such appeal shall be in accordance with chapter 54. All such appeals
1019 shall be heard by the court without a jury, and shall have precedence
1020 in the order of trial as provided in section 52-192. If the [review] board
1021 orders reimbursement or payment from the account [,] for a portion of
1022 the amount sought, but denies reimbursement or payment for the
1023 remainder, and the person seeking payment or reimbursement and a
1024 party to the appeal contests [any portion of the ordered reimbursement
1025 or payment] such denial, the uncontested portion of the ordered
1026 reimbursement or payment shall be made, notwithstanding the
1027 pendency of the appeal.

1028 Sec. 8. (*Effective October 1, 2006*) (a) Not later than October 1, 2006,
1029 the Underground Storage Tank Petroleum Clean-Up Account Review
1030 Board shall retain an expert to determine the exact nature and scope of
1031 the backlog of applications filed under section 22a-449f of the 2006
1032 supplement to the general statutes, as amended by this act. The board
1033 may use not more than two hundred fifty thousand dollars of the
1034 funds allocated for administrative costs pursuant to section 22a-449c of
1035 the 2006 supplement to the general statutes, as amended by this act, to

1036 pay for said expert. Once having determined the amount necessary to
1037 extinguish the claims held in excess of the statutory time requirements
1038 for payment of claims, as provided in said section 22a-449f, the board
1039 shall order payments from the underground storage tank petroleum
1040 clean-up account to extinguish all existing claims held longer than
1041 ninety days of said time requirements. The board shall make payments
1042 as are necessary pursuant to this subsection not later than one hundred
1043 eighty days after the order.

1044 (b) Not later than October 1, 2006, the board shall retain an expert to
1045 determine whether it is feasible for the board to provide owners and
1046 operators of underground storage tank systems with evidence of
1047 financial responsibility required by federal law by utilizing
1048 reinsurance for coverage amounts in excess of two hundred fifty
1049 thousand dollars and up to and including two million dollars. The
1050 board may use not more than two hundred fifty thousand dollars of
1051 the funds allocated for administrative costs pursuant to section 22a-
1052 449c of the 2006 supplement to the general statutes, as amended by this
1053 act, to pay for said expert. Not later than February 1, 2007, the board
1054 shall report to the joint standing committee of the General Assembly
1055 having cognizance of matters relating to the environment, in
1056 accordance with the provisions of section 11-4a of the general statutes,
1057 concerning the result of its analysis.

1058 Sec. 9. (*Effective October 1, 2006*) Sections 22a-449, 22a-449a, 22a-449c,
1059 22a-449d, 22a-449e, 22a-449f, and 22a-449p of the 2006 supplement to
1060 the general statutes, as amended by this act, shall, except where
1061 otherwise stated in the text of said sections, be applicable to
1062 applications to the underground storage tank petroleum clean-up
1063 account that were filed on or after June 30, 2005, and before October 1,
1064 2006.

1065 Sec. 10. Section 22a-449b of the general statutes is repealed. (*Effective*
1066 *October 1, 2006*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006, and applicable to applications filed with the Underground Storage Tank Clean-Up Review Board on or after October 1, 2006</i>	22a-449a
Sec. 2	<i>October 1, 2006, and applicable to applications filed with the Underground Storage Tank Clean-Up Review Board on or after October 1, 2006</i>	22a-449c
Sec. 3	<i>October 1, 2006, and applicable to applications filed with the Underground Storage Tank Clean-Up Review Board on or after October 1, 2006</i>	22a-449d
Sec. 4	<i>October 1, 2006</i>	12-587
Sec. 5	<i>October 1, 2006, and applicable to applications filed with the Underground Storage Tank Clean-Up Review Board on or after October 1, 2006</i>	22a-449e
Sec. 6	<i>October 1, 2006, and applicable to applications filed with the Underground Storage Tank Clean-Up Review Board on or after October 1, 2006</i>	22a-449f
Sec. 7	<i>October 1, 2006, and applicable to applications filed with the Underground Storage Tank Clean-Up Review Board on or after October 1, 2006</i>	22a-449g
Sec. 8	<i>October 1, 2006</i>	New section
Sec. 9	<i>October 1, 2006</i>	New section

Sec. 10	<i>October 1, 2006</i>	Repealer section
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Statement of Purpose:

To revise the commercial underground storage tank program provisions.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]